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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,506	09/14/2001	Donald J. Sanders	659/877	8456

7590 01/11/2006

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EXAMINER

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ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/954,506
Filing Date: September 14, 2001
Appellant(s): SANDERS ET AL.

MAILED

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GROUP 1700

Andrew D. Stover
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 26, 2005 appealing from the Office action mailed April 6, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

Appellant's brief presents arguments relating to the Drawing Amendment filed January 18, 2005 which was not approved as indicated in the Office Action filed on April 6, 2005. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

GROUND OF REJECTION NOT ON REVIEW

The following grounds of rejection have not been withdrawn by the examiner, but they are not under review on appeal because they have not been presented for review in the appellant's brief.

Claims 2, 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Takao (JP 03176053) further in view of Datta et al. (US Patent No. 5,476,702), Pohjola (US Patent No. 5,224,405) and/or Rajala et al. (US Patent No. 5,556,504) as applied to claims 2 and 12 above, and further in view of Widlund et al. (EP 0755238).

Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Takao (JP 03176053) further in view of Datta et al. (US Patent No. 5,476,702), Pohjola (US Patent No. 5,224,405) and/or Rajala et al. (US Patent No. 5,556,504) (optionally in view of Widlund et al. (EP 0755238)) as applied to claims 2 and 12 above, and further in view of Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Claims 41, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rajala et al. (US Patent No. 5,556,504) in view of Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101) as applied to claim 32 above, and further in view of Widlund et al. (EP 0755238).

The full text of the above rejections can be found in paragraphs 7, 8 and 10 of the prior Office Action filed on April 6, 2005, respectively.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

GB 2308290 A	FERNFORS	06-1997
JP 03176053 A	TAKAO	07-1981
US 5,476,702 A	DATTA et al.	12-1995
US 5,224,405 A	POHJOLA	06-1993
US 5,556,504 A	RAJALA et al.	09-1996
US 5,399,219 A	ROESSLER et al.	03-1995
US 5,900,101 A	JUSTMANN	05-1999
EP 0755238 B1	WIDLUND	08-1999

Fernfors is directed to a method of manufacturing a refastenable absorbent garment where a continuous absorbent garment assembly is moved in a first machine direction and fastener members are applied to one of the front and rear body panels of the assembly.

Takao is directed to a method of providing continuous absorbent garment assemblies with front and rear waist panels that have terminal crotch edges spaced apart in the cross direction with the crotch portions across the spaced apart terminal crotch edges in order to avoid the cost of forming cut-outs in the prior art continuous panels.

Datta is an example in the art of an applicator for applying fastener assemblies to a web where the fastener material is provided in a machine direction, cutting the material into a plurality of fasteners, rotating the fasteners about an axis perpendicular to the machine direction, and then applying the rotated fasteners to the web.

Pohjola is another example in the art of an applicator for applying fastener assemblies to a web where the fastener material is provided in a machine direction, cutting the material into a plurality of fasteners, rotating the fasteners about an axis perpendicular to the machine direction, and then applying the rotated fasteners to the web.

Rajala (in regards to independent claim 1) is an additional example in the art of a the fastener material is provided in a machine direction, cutting the material into a plurality of fasteners, rotating the fasteners about an axis perpendicular to the machine direction, and then applying the rotated fasteners to the web. In regards to independent claim 32, Rajala is directed to a method of manufacturing a refastenable absorbent garment by moving a base web in a first direction, moving at least two strips of fastener material in a second direction, cutting the at least two strips of fastener material to define at least a first and second stream of a plurality of fastener members, successively rotating each of said fastener members about an axis substantially perpendicular to the second machine direction and applying each of the fasteners to the base web to sequentially locate the fastener members in each stream in an alternating relationship along the first machine direction.

Roessler is an example in the art of providing fastener material to a manufacturing process where the fastener material is cut with a serpentine cut to form two strips, separating the strips in a cross machine direction and rotating the strips along an axis parallel to the machine direction in order to provide the strips facing outboard in opposite directions prior to applying to absorbent garment web assemblies.

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Justmann is another example in the art of providing fastener material to a manufacturing process where the fastener material is cut with a serpentine cut to form two strips, separating the strips in a cross machine direction and rotating the strips along an axis parallel to the machine direction in order to provide the strips facing outboard in opposite directions prior to applying to absorbent garment web assemblies.

Widlund is cited as an example in the art that it is known to provide two separate fasteners as an equivalent alternative to applying one strip with two fastener areas on a base web.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7-12, 14-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Takao (JP 03176053) as further taken with Datta et al. (US Patent No. 5,476,702), Pohjola (US Patent No. 5,224,405) and or Rajala et al. (US Patent No. 5,556,504).

Fernfors discloses a method of manufacturing a refastenable absorbent garment by moving a continuous absorbent garment subassembly (web 1) in a first machine direction, wherein said continuous absorbent garment subassembly comprises a continuous front body panel web (waistband portion 2 at either edge; sheets 28: back sheet or top sheet or liner), a continuous rear body panel web (waistband portion 2 at either edge; sheets 28: back sheet or top sheet or liner) and a plurality of discrete crotch

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portions (absorbent core 4) spaced along said first machine direction (arrow A) and extending between said continuous front and rear body panel webs (page 5), and applying fastener members to one of said continuous front and rear body panels (strips 5, 8 and 13).

Claim 1 further includes the limitations that the assembly has a front body panel that has a terminal crotch edge and a terminal waist edge, that the rear body panel web has a terminal crotch edge and a terminal waist edge, that the terminal crotch edges of the panels are spaced apart in a cross-direction, and that the crotch portions are across the spaced apart terminal crotch edges of the panels and have opposite terminal ends spaced in the cross direction and spaced from the terminal waist edges of the panels. The body panels in Fernfors have terminal waist edges and the crotch portions are spaced from the terminal waist edges of the panels, however, there is no disclosure of terminal crotch portions of the panels. The panels in Fernfors appear to be continuous in the cross direction with cut-out portions (7) for the legs. Takao discloses it is known to provide the front and rear waist panels with terminal crotch edges that are spaced apart in the cross direction and that crotch portions are across the spaced apart terminal crotch edges of the panels in order to avoid the cost of forming cut-outs in the prior art continuous panels (see figures and page one of translation). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of manufacturing refastenable absorbent garments as shown by Fernfors with the panels having terminal crotch edges in the claimed configuration in order to avoid the cost of forming cut-outs in continuous panels as shown by Takao.

While Fernfors discloses providing a plurality of fastener members to the web material, there is no particular disclosure on the specifics of applying the fastener material to the web. It is considered well known in the art of forming absorbent articles to apply fastener material to an absorbent garment web by moving fastener material in a second machine direction different from the web machine direction, cutting said fastener material to define a plurality of fastener members, successively rotating each of said fastener members about an axis substantially perpendicular to said second machine direction and applying each of said rotated fastener members to one of said continuous front and rear body panels of the web. For example, Datta discloses an example of applying fastener assemblies to a web by providing fastener material in a machine direction, cutting the material into a plurality of fasteners, rotating the fasteners about an axis perpendicular to the machine direction and then applying the rotated fasteners to the web (column 11, lines 42-50; column 12, lines 26-60). Pohjola also discloses an example of providing fastener material, cutting the material into a plurality of fasteners, rotating the fasteners along an axis perpendicular to the machine direction and applying the fasteners to a web (column 2, lines 40-64). Rajala additionally discloses an example of applying fasteners to a web by providing fastener material, cutting the material into a plurality of fasteners, rotating the fasteners along an axis perpendicular to the machine direction and then applying the fasteners to the web. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming the absorbent garment as shown by Fernfors by supplying the fastener strips through a conventional application process such as by cutting fastening

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material and rotating each fastener before applying in order to apply the fasteners in the desired configuration as is considered known in the art and further exemplified by Datta, Pohjola and/or Rajala.

As to claim 2, Fernfors discloses applying multiple strips (5, 8, 13), therefore at least two strips are considered to be moved in the second machine direction. As to claims 7 and 8 and 9, Fernfors discloses applying multiple strips of fastening material, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to cut each of the strips and rotate each of the streams of fasteners to form a plurality of fastening systems as is considered well known and further exemplified by Datta and/or Pohjola for the same reasons as discussed above. As to claim 10, the method of forming such articles is in a continuous manner where all steps are performed simultaneously, therefore, each of the streams of fastener members would be simultaneously rotated. As to claim 11, the fastening strips in Fernfors are successively applied. As to claim 12, Fernfors discloses applying multiple strips of fastening material, including strips 5, 8 and 13. It is known when applying fastening strips to webs, to apply multiple strips by rotating simultaneously and successively applying multiple pairs of strips. For example, Pohjola discloses rotating multiple pairs of strips simultaneously and applying multiple pairs of strips successively across the web. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the absorbent garments as shown by Fernfors by applying the fastening strips by rotating simultaneously in pairs and applying successively as shown by Pohjola. As to claim 14, Fernfors discloses successively applying fastener strips

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therefore the fasteners in the first stream are applied and then the fasteners in the second stream are applied downstream from the first application point. As to claims 15 and 16, Fernfors discloses the fastener members (for example strip 8) are releaseably engaged to one of the webs (page 7, lines 1-5) and then base portions are attached to one of the webs (welded portions page 8, lines 16-20). As to claim 17, Fernfors discloses providing cross cuts spaced along the webs in the machine direction (intended separation 6: page 6; line 16: page 9). As to claim 18, the fastening portion of strip 8 is applied to one of the sides of the perforation line 6 and the welded portion of the strip 8 is applied to the other side of the perforation line 6. As to claim 19, the cross cuts are made on the front panel web and the fastener members are considered to be applied to the front panel web. As to claim 20, the cross cut is a perforated cut (page 6). As to claim 21, the cutting is along both panel webs and forms a plurality of absorbent garments (page 9). As to claim 22, Fernfors discloses providing a plurality of landing members spaced along the machine direction (strips 5). As to claim 23, the panel web has a plurality of elastic elements extending along the machine direction (pages 5 and 6 and figures). As to claim 24, the elastic members in the landing zones are deactivated (not adhered areas in region where applying the strips; page 6, lines 10-18). As to claim 25, the landing members (strips 5) are applied at the landing zones. As to claims 26 and 27 and 28, in Fernfors the crotch portions are folded to face the webs and cross seams are formed by attaching the webs and then cutting the side seams (page 7, lines 25 to page 9, line 7). As to claim 29, Fernfors discloses an impervious outer cover with leg openings (page 5 and figures) it is considered

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conventionally well known to provide retention portions on crotch portions of absorbent articles and to cut the leg openings between the retention portions. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide retention portions on the crotch portions of the absorbent article in Fernfors and to cut the leg openings between the retention portions as is considered conventionally well known in the art. As to claim 30, the machine direction of the webs are horizontal and it is well known that the machine direction of the fastener material is horizontal as well, see for example, Datta. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the machine directions of the materials forming the absorbent article in Fernfors as parallel as is considered well known in the art and further exemplified by Datta, only the expected results would be attained. As to claim 31, Pohjola discloses the fastener materials are rotated approximately 90 degrees.

Claims 32, 34-40, 48, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rajala et al. (US Patent No. 5,556,504) in view of Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Rajala discloses a method for manufacturing a refastenable absorbent garment by moving a base web in a first direction (134), moving at least two strips of fastener material in a second direction (column 1, lines 25-30; column 15, lines 40-55), cutting the at least two strips of fastener material to define at least a first and second stream of a plurality of fastener members (column 3, lines 45-50), successively rotating each of said fastener members about an axis substantially perpendicular to said second machine direction in each of said first and second streams, and applying each of said rotated fastener members in each of said first and second streams to said base web,

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wherein said fastener members in said first stream are sequentially located relative to said fastener members in said second stream on said base web in an alternating relationship along said first machine direction (see figures and description of figures 8-11).

It is well known in the art to provide multiple strips of fasteners to webs by providing a fastener material in a machine direction and cutting the material in order to form the two strips of fastener material where the strips are separated, and serpentine cut along the machine direction in order to form a plurality of fasteners with tabs. For example, both Roessler and Justmann show methods of applying fasteners to continuous absorbent garment webs by cutting a fastener material with a serpentine cut to form two strips and separating the strips in a cross machine direction in order to provide the strips prior to applying to webs. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming the absorbent garment as shown by Rajala by providing a strip of fastening material, cutting in a serpentine fashion to form two strips and separating the strips in order to properly apply the strips to the continuous web as is considered well known in the art to reduce the material wasted and the method steps as compared to forming two separate strips as is considered well known in the art and exemplified by Roessler et al. and/or Justmann.

Claims 34 and 35 are met as discussed above as exemplified by Roessler and/or Justmann. As to claim 36, each set of fasteners are considered to be a plurality of fastening systems and the first and second streams of fastening systems are

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consecutively positioned on the base web in alternating sequence. As to claim 37, the systems are simultaneously rotated. As to claim 38, each system is successively applied. As to claim 39, the pairs of fastener members from each stream are simultaneously rotated and successively applied. As to claim 40, while Rajala shows it is known to simultaneously apply pairs of fastener members, it would have been well within the purview of one of ordinary skill in the art at the time of the invention to rotate each stream of each pair of streams on separate rotating machines as it is known to rotate single streams (in other embodiments), with one stream downstream from the other, only the expected results would be attained. As to claim 48, the machine direction of the fasteners as they are rotated is parallel to the machine direction of the web. As to claim 49, the fasteners are rotated 90 degrees.

Claims 32, 41-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Widlund et al. (EP 0755238) and Rajala et al. (US Patent No. 5,556,504) as further taken with Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Fernfors discloses a method of forming a refastenable absorbent garment by applying a fastener strip (8) to a base web (1). The fastener strip in Fernfors is a strip with two fastening areas. Widlund discloses it is known in the art to provide two separate fasteners as an equivalent alternative to applying one strip with two fastener areas on a base web (column 7, lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the refastenable absorbent garment as shown by Fernfors by applying two fastener strips as an equivalent alternative to applying one fastener with two fastening areas as shown by Widlund.

Neither Fernfors nor Widlund disclose the particulars of applying the fastener material to the web. It is known in the art to apply fastener materials to base webs for absorbent articles by providing two strips of fastener material, cutting the material into individual fasteners, rotating the fastener pairs and then applying to the web. For example, Rajala discloses a method for manufacturing a refastenable absorbent garment by moving a base web in a first direction (134), moving at least two strips of fastener material in a second direction (column 1, lines 25-30; column 15, lines 40-55), cutting the at least two strips of fastener material to define at least a first and second stream of a plurality of fastener members (column 3, lines 45-50), successively rotating each of said fastener members about an axis substantially perpendicular to said second machine direction in each of said first and second streams, and applying each of said rotated fastener members in each of said first and second streams to said base web, wherein said fastener members in said first stream are sequentially located relative to said fastener members in said second stream on said base web in an alternating relationship along said first machine direction (see figures and description of figures 8-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the refastenable absorbent garment as shown by Fernfors and Widlund by applying fastening material pairs to the base web in a manner known in the art as exemplified by Rajala in order to properly apply the pairs to the web during the manufacturing process.

It is well known in the art to provide multiple strips of fasteners to webs by providing a fastener material in a machine direction and cutting the material in order to

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form the two strips of fastener material where the strips are separated, and serpentine cut along the machine direction in order to form a plurality of fasteners with tabs. For example, both Roessler and Justmann show methods of applying fasteners to continuous absorbent garment webs by cutting a fastener material with a serpentine cut to form two strips and separating the strips in a cross machine direction in order to provide the strips prior to applying to webs. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming the absorbent garment as shown by Fernfors, Widlund, and Rajala by providing a strip of fastening material, cutting in a serpentine fashion to form two strips and separating the strips in order to properly apply the strips to the continuous web as is considered well known in the art to reduce the material wasted and the method steps as compared to forming two separate strips as is considered well known in the art and exemplified by Roessler et al. and/or Justmann.

As to claim 41 Fernfors discloses successively cutting the base web in the cross direction spaced in the machine direction (lines of weakening 6 and line 16). As to claim 42, each of the fastening strips (8) in Fernfors have a base portion (surplus 9) and a fastening portion (attachment means 18) applied on opposite sides of the cross direction cuts (lines of weakening 6). As to claim 43, the cross direction cut is a perforated cut (lines of weakening 6). As to claim 44, the base web comprises a plurality of landing members (5) spaced along the first machine direction. As to claim 45, the base web comprises a plurality of elastic elements extending in the first machine direction (page 6, lines 11-18). As to claim 46, the plurality of elastic elements are

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deactivated in the landing zones successively spaced along the first machine direction (none adhered areas page 6, lines 11-18). As to claim 47, landing members (5) are successively attached to said base web at said successively spaced landing zones (page 6).

(10) Response to Argument

Claims 1, 2, 7-12, 14-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Takao (JP 03176053) as further taken with Datta et al. (US Patent No. 5,476,702), Pohjola (US Patent No. 5,224,405) and or Rajala et al. (US Patent No. 5,556,504).

Independent claim 1

Appellant argues on pages 7 to 8 that Fernfors discloses that fastener strips 8 and 13 each have a material surplus or loop formed above the line of separation which results in a gap left beneath the surplus, that Fernfors teaches that it is necessary for the fastener strips to have a surplus loop of material, and that the references Datta, Pohjola, or Rajala do not disclose or suggest an apparatus or method for engaging and transferring a strip having a loop of surplus material especially when the surplus material is facing towards, and would necessarily have to be engaged by, the engaging surface of the transfer apparatus (with the references teaching engagement of flat members by way of vacuum and no teaching of engaging a surface having a loop or surplus material where the vacuum would remove the surplus material facing towards the engaging surface).

It is first noted that independent claim 1 does not require the basis of the rejection to be on the fastener strips 8 and 13 of Fernfors. Fernfors also discloses the

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application of fastener strip 5 which clearly does not require a loop of surplus material and clearly the methods taught by Datta, Pohjola, and/or Rajala are fully capable of applying the "flat" fastener strip 5 of Fernfors.

Even if the reference Fernfors did not disclose the application of fastener strip 5, the method steps are still obvious over the fastener strips 8 and 13 of Fernfors in view of Datta, Pohjola, and/or Rajala. The secondary references all show examples of how it is known in the absorbent garment manufacturing art to apply fastener strips to webs through a rotation device. The rotation devices include dies or platens [Datta (platens 124), Pohjola (pucks 74), Rajala (transport heads 46, 146)] for placing the web of fastener material, cutting the web into fastener strips and rotating the strips around the device to apply to a moving web of absorbent garment material. The references do not specifically disclose the particular configuration of the dies or platens, however one of ordinary skill in the art would readily appreciate using dies or platens in the configuration of the strips desired to be applied. Thus, one of ordinary skill in the art, looking at all the references as a whole would readily recognize forming the die or platen with an indent in the location of the surplus material in order to apply the strips in Fernfors, only the expected results would be attained.

Appellant argues on page 9 that the Fernfors strip 5 is a landing material similar to that described in the Specification and that Applicants consistently distinguished a fastener material from a landing material therefore it is improper for the Examiner to interpret claim 1 as including a landing material within the scope of the recited fastener material.

The claims recite moving and cutting fastener material to form fastener members that are rotated and applied to a web. In interpreting the language of a claim, we give the terms thereof the broadest reasonable interpretation in their ordinary usage as they would be understood by one of ordinary skill in the art in light of the written description in the specification, unless another meaning is intended by Appellants as established in the written description of the specification, and without reading into the claims any limitation or particular embodiment disclosed in the specification. The strips 5 in Fernfors are fastener materials that form fastener members. Fernfors discloses that the strip 5 comprises one of the elements of a releasable attachment means (page 5, line 26 to page 6, line 3). Each element of a releasable attachment means is considered to be "fastener" material in its broadest reasonable interpretation in their ordinary usage as they would be understood by one of ordinary skill in the art in light of the written description in the specification. There is no specific definition in the Specification that provides another meaning that is intended by Appellants.

Appellants argue on page 9 that the strips 5 do not have any tabs or other characteristics requiring it to be oriented in any particular fashion, that any rotation of the strip in Fernfors would be extraneous, that the strip necessarily is traveling in the machine direction such that it does not need to be rotated and that Fernfors teaches against and does not disclose or suggest rotating strip 5 prior to application.

It is noted that claim 1 has no requirement that the fastener material have any tab or other characteristic that would require it to be oriented in any particular fashion. It is further noted that there are no particular characteristics in the fastener materials as

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shown in Datta, Pohjola and/or Rajala that require a particular orientation. The rejection is based on the fact that it is well known in the absorbent garment art to apply fastener material to a web in the manufacturing process by moving fastener material in a second machine direction different from the web machine direction, cutting said fastener material to define a plurality of fastener members, successively rotating each of said fastener members about an axis substantially perpendicular to said second machine direction and applying each of said rotated fastener members to one of said continuous front and rear body panels of the web. The purpose of the rotation is not necessarily due to the orientation of the strips. There is no teaching against rotation of the strip material in Fernfors.

Dependent claim 15

Appellant argues on page 10 that the strip 5 of Fernfors does not releaseably engage any of the body panels as recited in claim 15.

The rejection of claim 15 is based upon the fastener material as being the strip 8.

Appellant argues on page 11 that there is no suggestion to rotate the strips 8 or 13 with their surplus material in view of Datta, Pohjola and/or Rajala as set forth above with respect to claim 1.

The arguments with respect to claim 1 have all been addressed above.

Claims 32, 34-40, 48, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rajala et al. (US Patent No. 5,556,504) in view of Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Appellant argues on page 11 that the references Roessler and Justmann disclose cutting fastener webs immediately prior to applying them to the web moving in

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the same direction therefore they do not suggest and teach against rotating the fasteners once they are separated but before applying them to another web.

The rejection is based on Rajala in view of Roessler and/or Justmann. Rajala discloses a method of applying two strips of fastener material (which have been cut and rotated from two streams of material) to a base web. Rajala does not specifically disclose how the two streams of fastener material are formed. It is considered well known in the manufacturing arts, in particular the fastener applying art for manufacturing absorbent garments, to provide two streams of fastener material by providing a single web of fastener material which is then cut and separated to form the two streams. Roessler and/or Justmann are cited to show examples of forming two streams of fastener material by cutting one web of fastener material and separating the cut web into two streams of fastener material in order to reduce wasted material.

Appellant argues on page 12 that Rajala does not provide any motivation for incorporating fasteners webs of Justmann or Roessler, Rajala does not disclose what orientation such fasteners would have, Rajala does not disclose that the fasteners are oriented as taught by Justmann or Roessler, and that Justmann and Roessler teach against rotating streams of fasteners as oriented thus there is no suggestion to combine the references.

As discussed above, the rejection is based on forming the two streams of fastener material in Rajala in a well known and conventional manner from one web that is cut and separated as exemplified by Justmann and/or Roessler in order to reduce wasted material. This method of providing two streams of fasteners from one web is

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utilized in order to conserve materials and the costs of forming two separate streams of fastener material. Rajala does not have to disclose what orientation the fasteners would have to meet the limitations of the claims. The suggestion to combine the references is in order to form the two streams of fastener material they are formed from one web that is cut and separated as is known in the art and exemplified by Roessler and/or Justmann in order to reduce wasted material.

Claims 32, 41-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Widlund et al. (EP 0755238) and Rajala et al. (US Patent No. 5,556,504) as further taken with Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Appellant argues on page 13 that Fernfors discloses a particular way of applying the fastener material that teaches against the combination of Rajala as set forth above.

All the arguments with respect to Fernfors teaching away the combination have been addressed with respect to claim 1 above.

Appellant argues on page 13 that Fernfors teaches against incorporating the two-fastener embodiment disclosed in Widlund, that the fasteners in Widlund do not have material bridging the gap across the line which is the exact opposite of Fernfors which discloses the necessity of bridging the gap.

While Fernfors teaches providing one strip with a gap to overlap an imaginary separation line between two fastener areas, it is known in the art to provide two separate fasteners as an equivalent alternative to applying one fastener as shown by Widlund. Widlund clearly shows that providing either one strip with two fastener areas or two fastener strips are known equivalent alternatives in the art. One of ordinary skill in the art would readily recognize the advantages and disadvantages of either

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alternative and would be motivated to provide either method depending on the particular advantages desired or the lack of importance of the disadvantages. Thus one of ordinary skill in the art would readily recognize performing the method as shown in Fernfors with two strips that provide the fastening area and the bonding area for each garment as an equivalent alternative to providing one strip, only the expected results would be attained.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Gladys JP Corcoran

Conferees:

SG  SPE AU 1731

RC  SPE AU 1733